

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

RUBEN C. JONES, Register No. 509673,)	
)	
Plaintiff,)	
)	
v.)	No. 09-4082-CV-C-SOW
)	
K. WILLIAMS, et al.,)	
)	
Defendants.)	

ORDER

On June 22, 2009, United States Magistrate Judge William A. Knox recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the motion for appointment of counsel filed by plaintiff on July 13, 2009, which also appears to include his exceptions. The issues raised in plaintiff's motion were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Further, the court notes that plaintiff's claims appear to have arisen out of an incident that occurred in 1996; therefore, they may be barred by the statute of limitations. To the extent plaintiff asserts new property claims not alleged in his original complaint, these are not properly before the court and need not be addressed. Property claims typically are not properly filed in federal court under 42 U.S.C. § 1983. See Hudson v. Palmer, 468 U.S. 517, 533 (1984) (intentional and negligent deprivations of property not actionable under section 1983 if suitable state remedy); Orebaugh v.

Caspari, 910 F.2d 526, 527 (8th Cir. 1990) (Missouri provides adequate remedies to address property damages).

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that [9] the Report and Recommendation of June 22, 2009, is adopted. It is further

ORDERED that plaintiff's claims against defendants L.F. Holmes, Jill McGuire and Cheri Shewmuekor are dismissed, pursuant to 28 U.S.C. § 1915A, for failure to state a claim for which relief can be granted. It is further

ORDERED that plaintiff's claims against defendant K. Williams are dismissed, without prejudice. It is further

ORDERED that [10] plaintiff's motion for appointment of counsel is denied.

/s/ Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

DATED: September 30, 2009
Kansas City, Missouri